

any merchandise refused delivery to the consignee, or redelivered by the consignee pursuant to a demand therefor, and not exported by the consignee within 90 days after notice of such refusal of delivery or within 90 days after such redelivery, as applicable.

[T.D. 75-194, 40 FR 32322, Aug. 1, 1975, as amended by T.D. 84-213, 49 FR 41168, Oct. 19, 1984]

CHEMICAL SUBSTANCES IN BULK AND AS PART OF MIXTURES AND ARTICLES

SOURCE: Sections 12.118 through 12.127 issued by T.D. 83-158, 48 FR 34739, Aug. 1, 1983, unless otherwise noted.

§ 12.118 Toxic Substances Control Act.

The importation into the customs territory of the United States of a chemical substance in bulk or as part of a mixture, or article *containing a chemical substance or mixture*, is governed by the Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 *et seq.*), and by regulations issued under the authority of section 13(b), TSCA (15 U.S.C. 2612(b)) by the Secretary of the Treasury in consultation with the Administrator, Environmental Protection Agency ("EPA").

§ 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of chemical substances in bulk and as part of mixtures under TSCA. Sections 12.120 through 12.127 also apply to articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA.

§ 12.120 Definitions.

Except as otherwise provided below, the terms used in §§12.121 through 12.127 have the meanings set forth for those terms in TSCA.

(a) *Article*—(1) *Article* means a manufactured item which:

- (i) Is formed to a specific shape or design during manufacture,
- (ii) Has end use functions dependent in whole or in part upon its shape or design during the end use, and
- (iii) Has either no change of chemical composition during its end use or only those changes of composition which

have no commercial purpose separate from that of the article and that may occur as described in §12.120(a)(2); except that fluids and particles are not considered articles regardless of shape or design.

(2) The allowable changes of composition, referred to in §12.120(a)(1), are those which result from a chemical reaction that occurs upon the end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares in which the chemical substance manufactured upon end use of the article is not itself manufactured for distribution in commerce or for use as an intermediate.

(b) *Chemical substance in bulk form* means a chemical substance (other than as part of a mixture or article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

§ 12.121 Reporting requirements.

(a) *Chemical substances in bulk or mixtures*—(1) *Certification required*. The importer of a chemical substance imported in bulk or as part of a mixture, or the authorized agent of such an importer, must certify either that the chemical shipment is subject to TSCA and complies with all applicable rules and orders thereunder, or that the chemical shipment is not subject to TSCA, by signing and filing with Customs one of the following statements:

I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order thereunder.

I certify that all chemical substances in this shipment are not subject to TSCA.

(2) *Filing of certification*—(i) *General*. The appropriate certification required under paragraph (a)(1) of this section must be filed with the director of the

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port of entry before release of the shipment and, except when a blanket certification is on file as provided for in paragraph (a)(2)(ii) of this section, must appear as a typed or stamped statement:

(A) On an appropriate entry document or commercial invoice or on an attachment to that entry document or invoice; or

(B) In the event of release under a special permit for an immediate delivery as provided for in §142.21 of this chapter or in the case of an entry as provided for in §142.3 of this chapter, on the commercial invoice or on an attachment to that invoice.

(ii) *Blanket certifications.* A port director may, in his discretion, approve an importer's use of a "blanket" certification, in lieu of filing a separate certification for each chemical shipment, for any chemical shipment that conforms to a product description provided to Customs pursuant to paragraph (a)(2)(ii)(A) of this section. In approving the use of a "blanket" certification, the port director should consider the reliability of the importer and Customs broker. Approval and use of a "blanket" certification will be subject to the following conditions:

(A) A "blanket" certification must be filed with the port director on the letterhead of the certifying firm, must list the products covered by name and Harmonized Tariff Schedule of the United States subheading number, must identify the foreign supplier by name and address, and must be signed by an authorized person;

(B) A "blanket" certification will remain valid, and may be used, for 1 year from the date of approval unless the approval is revoked earlier for cause by the port director. Separate "blanket" certifications must be approved and used for chemical substances that are subject to TSCA and for chemical substances that are not subject to TSCA; and

(C) An importer for whom the use of a "blanket" certification has been approved must include, on the invoice used in connection with the entry and entry summary procedures for each shipment covered by the "blanket" certification, a statement referring to the "blanket" certification and incor-

porating it by reference. This statement need not be signed.

(b) *Chemical substances or mixtures as parts of articles.* Each importer of a chemical substance or mixture as part of an article must comply with the certification requirements set forth in paragraph (a) of this section only if required to do so by a rule or order issued under TSCA.

(c) *Facsimile signatures.* The certification statements required under paragraph (a)(1) of this section may be signed by means of an authorized facsimile signature.

[T.D. 00–13, 65 FR 10704, Feb. 29, 2000]

§ 12.122 Detention of certain shipments.

(a) The director of the port of arrival shall detain, at the importer's risk and expense, shipments of chemical substances, mixtures, or articles:

(1) Which have been banned from the customs territory of the United States by a rule or order issued under section 5 or 6 of TSCA (15 U.S.C. 2604 or 2605) or

(2) Which have been ordered seized because of imminent hazards as specified under section 7 of TSCA (15 U.S.C. 2606).

(b) The director of the port of entry shall detain shipments of chemical substances, mixtures, or articles at the importer's risk and expense, in the following situations:

(1) Whenever the Administrator has reasonable grounds to believe that the shipment is not in compliance with TSCA and notifies the port director to detain the shipment.

(2) Whenever the port director has reasonable grounds to believe that the shipment is not in compliance with TSCA; or

(3) Whenever the importer fails to certify compliance with TSCA as required by §12.121.

(c) Upon detention of a shipment, the port director shall give prompt notice to the Administrator and the importer. The notice shall include the reasons for detention.

(d) A detained shipment shall not be held in the custody of the port director for more than 48 hours after the date of detention. Thereafter, the shipment shall be promptly turned over to the